

On July 26, 1991, Justice Jean-Jude Chabot of Quebec Superior Court in Montreal released a judgment striking down the Canadian Tobacco Products Control Act (T.P.C.A.) in its entirety. RJR-MacDonald, Inc. and Imperial Tobacco Ltd. prevailed both on their division-of-powers and freedom of expression claims. In the opinion, the court made the following points:

- There is no evidence that advertising, as such, entails a danger to public health;
- The imposition of unattributed health warnings on tobacco manufacturers by the government violates freedom of expression;
- The T.P.C.A. is a piece of moral legislation constituting a form of censorship and social engineering incompatible with the true essence of a free and democratic society;
- The T.P.C.A. deprives the adult population of Canada of product information that would allow them to make informed economic choices;
- There has been a constant state of decline in tobacco use for over twenty years, in all age groups, despite the existence of tobacco industry advertising;
- The T.P.C.A. seeks to organize society according to a model decided by the State and such paternalism and totalitarianism is unacceptable in a free and democratic society;
- It is difficult to believe that the elimination of tobacco advertising will free the social environment from reminders of tobacco use, particularly since movies, books, videos and television programs contain examples of such use;
- The New Zealand Toxic Substances Board Report contains grave methodological errors demonstrating a lack of scientific rigor that rendered it without probative value;

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- In his testimony, Dr. Jeffrey Harris did not provide the degree of scientific objectivity that a court has a right to expect from an expert witness; on cross examination, he was evasive and his answers self-serving;
- Even if the T.S.B. Report and Dr. Harris' testimony had been acceptable, they would only have established the possibility that an advertising ban influences tobacco use, nothing more.

It should also be noted that the opinion contained:

- No finding regarding the health effects of tobacco use; and
- No reference to internal company scientific or marketing documents.

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